



IMMIGRATION ACT 1971

IMMIGRATION APPEALS (PROCEDURE) RULES 1997

Coming into operation

1st April 1997

In exercise of the powers conferred on the Deemsters by section 22 of, and paragraph 25 of Schedule 2 to, the Immigration Act 1971 (an Act of Parliament)(a), as that Act has effect in the Isle of Man and of all other enabling powers, the following Rules are hereby made:-

Citation and commencement

1. These Rules may be cited as the Immigration Appeals (Procedure) Rules 1997 and shall come into operation on the 1st April 1997.

Interpretation

2. (1) In these Rules, unless the context otherwise requires-
"the Act" means the Immigration Act 1971 (an Act of Parliament) as that Act has effect in the Isle of Man;
"appeal" means any appeal under Part II of the Act;
"entry clearance officer" means a person having authority to grant entry clearance on behalf of the Lieutenant Governor of the Isle of Man;

(a) P.1971 c. 77; s.22 and Sch.2 extended to Isle of Man by SI 1997/275

"officer" means an immigration officer or an entry clearance officer;

"respondent" means a person, other than the appellant, who is a party to the appeal by virtue of rule 6(1).

(2) In these Rules any reference to a rule shall be construed as a reference to a rule contained in these Rules and any reference in a rule to a paragraph shall be construed as a reference to a paragraph of that rule.

(3) In these Rules any reference to a form is a reference to a form set out in the Schedule to these Rules.

(4) In these Rules the time by which any act must be done shall be calculated in the manner provided in Rule 30.

Time limit for appealing

3. (1) Notice of appeal under section 13(1) of the Act by a person refused leave to enter the Isle of Man may be given -

- (a) where, by virtue of section 13(3) of the Act, he is not entitled to appeal so long as he is in the Isle of Man, after the departure of the ship or aircraft in which he leaves the Isle of Man but not later than 28 days thereafter;
- (b) in any other case, before or after the departure of the ship or aircraft in which he is to be removed from, or leaves, the Isle of Man but not later than 28 days thereafter.

(2) Notice of appeal under section 13(2) of the Act by a person refused a certificate of entitlement, on an application duly made to an entry clearance officer, may be given not later than 3 months after the refusal.

(3) Notice of appeal under section 13(2) of the Act by a person refused a certificate of entitlement, on an application duly made to the Lieutenant Governor, may be given not later than 14 days after the refusal.

(4) Notice of appeal under section 13(2) by a person refused an entry clearance may be given not later than 3 months after the refusal.

(5) Notice of appeal under section 14(1) of the Act by a person who has a

limited leave to enter or remain in the Isle of Man, against any variation of the leave or any refusal to vary it, may be given not later than 14 days after the variation or refusal to vary.

(6) Notice of appeal under section 14(2) of the Act by a person given a limited leave to remain in the Isle of Man in the circumstances there mentioned, against any provision limiting the duration of leave or attaching any condition to it, may be given not later than 14 days after the giving of the limited leave.

(7) Notice of appeal under section 15(1)(a) of the Act by a person against whom the Lieutenant Governor has decided to make a deportation order by virtue of section 3(5), against that decision, may be given not later than 14 days after the decision.

(8) Notice of appeal under section 15(1)(b) of the Act by a person against whom a deportation order is in force, against a refusal by the Lieutenant Governor to revoke the order, may be given not later than 28 days after the refusal.

(9) Notice of appeal under section 16(1) of the Act by a person for whose removal from the Isle of Man such directions as are there mentioned have been given, against those directions, may be given -

- (a) where, by virtue of section 16(2) of the Act, he is not entitled to appeal so long as he is in the Isle of Man, after the departure of the ship or aircraft in which he leaves the Isle of Man but not later than 28 days thereafter;
- (b) in any other case, before or after the departure of the ship or aircraft in which he is to be removed from, or leaves, the Isle of Man but not later than 28 days thereafter.

(10) Notice of appeal under section 17(1) of the Act by a person for whose removal from the Isle of Man directions have been given, on the ground that he ought to be removed (if at all) to a different country or territory specified by him, may be given -

- (a) where the directions have been given on his being refused leave to enter the Isle of Man, at any time before the departure of the

ship or aircraft in which he is to be removed from the Isle of Man;

- (b) in any other case, before such departure but not later than 14 days after the giving of the directions.

(11) Where notice in writing of an action or decision is required by the Immigration Appeals (Notices) Regulations 1997(b) to be given then, for the purposes of this rule, that action or decision shall be deemed to have been taken -

- (a) where the notice is sent by post, on the day on which it was sent;
- (b) in any other case, on the day on which the notice was served.

Further opportunity to appeal

4. (1) Where a person gives, to the appropriate officer specified in rule 5(2), notice of appeal after the expiry of the period permitted by rule 3 for the giving of such notice, the appropriate officer may, subject to paragraph (3), treat the notice as if it had been given in accordance with rule 3 if he is of the opinion that, by reason of special circumstances, it is just and right to do so, and in such a case the notice in question shall, as from the day on which the aforementioned power is exercised, be treated for all purposes as if it had been given in accordance with rule 3.

(2) No steps shall be taken under this rule in the case of a person in respect of whom a deportation order is for the time being in force.

(3) Rule 5(8) shall apply for the purposes of this rule as it applies for the purposes of rule 5.

Notice of Appeal

5. (1) Notice of appeal shall be given by furnishing, in writing, and serving

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on the appropriate officer specified in paragraph (2), the particulars specified in paragraph (3):

Provided that notice of appeal under section 13(1) of the Act by a person refused leave to enter, against the refusal (unless, by virtue of section 13(3) of the Act, he is not entitled to appeal so long as he is in the Isle of Man) or against the decision that he requires leave, may, if the appellant is in the Isle of Man, be given orally to any immigration officer (whether or not responsible for the decision or action in question) by him or by a person duly authorised by him in that behalf or, in the case of an appellant who is a minor or who is for any reason incapable of acting, by any person acting on his behalf.

(2) For the purposes of paragraph (1) the appropriate officer is -

(a) in the case of an appeal under section 13(1), 16(1) or 17(1) of the Act, against an action or a decision for which an immigration officer is responsible, that officer;

(b) in the case of an appeal under section 13(2) of the Act by a person refused an entry clearance or a certificate of entitlement on an application duly made to an entry clearance officer, that officer;

(c) in the case of any other appeal to the Lieutenant Governor, except that, in the case of an appeal as is mentioned in sub-paragraph (a) or (b), where the Lieutenant Governor is satisfied that, by reason of special circumstances, it is impracticable or impossible for notice of appeal to be served on the immigration or entry clearance officer concerned, the appropriate officer shall be the Lieutenant Governor or such immigration or entry clearance officer as he may designate to accept service of the notice.

(3) The particulars referred to in paragraph (1) shall consist of -

(a) the full name, address, date of birth and nationality or citizenship of the appellant;

(b) particulars of the decision or action to which the notice relates;
and

(c) the grounds of appeal on which the appellant intends to rely.

Without prejudice to sub-paragraph (c) of this paragraph, where the notice of appeal relates to a right of appeal under section 17 of the Act, the notice shall include a statement which specifies the reasons why the appellant objects to removal to the country or territory specified by the respondent, identifies the country or territory to which the appellant claims he ought to be removed (if at all) and refers to evidence which demonstrates or tends to show that the country or territory so identified would admit the appellant if he were to be removed there.

(4) The grounds of an appeal particularised in a notice of appeal may be varied or amplified at any time during the course of the appeal.

(5) The notice of appeal shall be signed by the appellant or by a person duly authorised by him for the purpose or, in the case of an appellant who is a minor or who is for any reason incapable of acting, by any person acting on his behalf.

(6) (a) Subject to paragraph (7), an officer to whom notice of appeal has been given in accordance with these Rules shall, unless the appellant subsequently gives that officer written notice of the withdrawal of his appeal, take such steps as are necessary to ensure that the notice of appeal is referred to the adjudicator with such particulars relating to the nature and grounds of appeal as have been given by the appellant.

(b) The steps required by sub-paragraph (a) of this paragraph shall be taken, in the case of an immigration officer, as soon as practicable after the giving of the notice of appeal or, in any other case, as soon as practicable after the written statement of facts required by rule 7 has been prepared.

(7) Where notice of appeal has been given to an officer in accordance with these Rules but the decision or action to which it relates has subsequently been reversed, withdrawn or varied, the officer shall ascertain whether the appellant wishes to pursue the appeal and -

- (a) unless he does, no action shall be taken on the notice;
- (b) if he does, he shall be afforded an opportunity to amend the notice or to substitute a fresh notice therefor.

(8) Where a written notice of appeal directed to an immigration officer or an entry clearance officer has in accordance with rule 31 been sent to, or delivered at, the address mentioned in rule 31(1)(d) then, if that officer is for any reason unable to receive the notice, it shall be deemed to have been served on him; and in any such case the Lieutenant Governor shall cause the steps required by paragraph (6) to be taken by another officer in accordance with that paragraph.

Parties

6. (1) The parties to an appeal shall be the appellant and -
- (a) in the case of an appeal under section 13(1), 16(1) or 17(1) of the Act against an action or a decision for which an immigration officer is responsible, that officer;
 - (b) in the case of an appeal under section 13(2) of the Act by a person refused entry clearance or a certificate of entitlement on an application duly made to an entry clearance officer, that officer;
 - (c) in the case of any other appeal, the Lieutenant Governor,
- except that, in the case of such an appeal as is mentioned in sub-paragraph (a) or (b) of this paragraph, where the Lieutenant Governor is satisfied that, by reason of special circumstances, it is impracticable or impossible for the immigration officer or entry clearance officer concerned to take part in the proceedings, the Lieutenant Governor may direct that he or such immigration officer or entry clearance officer as he may designate for the purpose, shall be treated as a party to the appeal in place of the officer concerned; and thereupon any notice or other document sent or given by or to the officer concerned for the purposes of the appeal shall be deemed to have been sent or given by or to the Lieutenant Governor or the designated officer.

(2) The Lieutenant Governor shall be treated as a party to any appeal, where he would not otherwise be a party to it by virtue of this rule, upon giving written notice to the adjudicator at any time during the course of the appeal stating that he desires to be so treated.

(3) If any party to an appeal is or claims to be a refugee within the competence of the United Nations High Commissioner for Refugees, The United Kingdom Representative of the High Commissioner shall be treated as a party to the appeal upon giving written notice to the adjudicator at any time during the course of the appeal stating that he desires to be so treated.

Explanatory statement by the respondent

7. (1) Subject to paragraphs (2) and (3), the respondent in an appeal shall, as soon as practicable after notice of the appeal is given, prepare a written statement of the facts relating to the decision or action in question and the reasons therefor and take such steps as are necessary to ensure that the statement is referred to the adjudicator and that a copy thereof is given to the appellant.

(2) It shall not be necessary for an immigration officer who is the respondent in an appeal to comply with the requirements of paragraph (1) if he is of the opinion that it is not practicable to do so, having regard to the time available before the hearing of the appeal; but he shall then, as soon as is practicable after notice of the appeal is given, give written notice to the adjudicator and the appellant that he is of that opinion and that a statement of the facts relating to the decision or action in question and the reasons therefor will be given orally at the hearing of the appeal.

(3) Where the respondent to an appeal alleges that -

- (a) the appellant is not entitled to appeal -
 - (i) by virtue of a provision of the Act specified by the respondent, or
 - (ii) by reason that a passport or other travel document, certificate of entitlement, entry clearance or work permit

(or any part thereof or entry therein) on which the appellant relies is a forgery or was issued to, and relates to, a person other than the appellant, or

(iii) by reason that notice of appeal has not been signed by the appellant or by a person duly authorised by him in that behalf or, in the case of an appellant who is a minor or who is for any reason incapable of acting, by any person acting on his behalf; or

(b) the notice of appeal was not given within the period permitted by rule 3,

the written statement referred to in paragraph (1) shall include that allegation but it shall not be necessary for the respondent to include in the statement facts which are not relevant to the allegation.

(4) Where a written statement has been given in accordance with paragraph (1), then at the commencement of any hearing, the adjudicator shall give to the respondent an opportunity to amplify orally the statement of the facts relating to the decision or action in question and the reasons therefor contained in the written statement; if no such written statement has been given, then at the commencement of any hearing, the adjudicator shall obtain from the respondent an oral statement of the facts relating to the decision or action in question and the reasons therefor.

Appeal against removal on objection to destination

8. (1) This rule shall apply where an appellant objects to removal to a particular country or territory and claims that he ought to be removed (if at all) to a different country or territory -

- (a) on appeal under section 17(1) of the Act;
- (b) by virtue of section 17(2) of the Act, on appeal under section 13(1) thereof, or
- (c) by virtue of section 17(3) of the Act, on appeal under section

15 thereof.

(2) The appellant shall submit with his notice of appeal a statement in writing of the matters put forward in support of his objection and claim.

Supply of documents

9. Subject to the provisions of rule 19(2) (cases involving forgery of documents), the adjudicator shall cause copies of all notices and other documents required for an appeal to be supplied to every party to the appeal.

Determination of preliminary issues

10. (1) Where the respondent to an appeal makes such an allegation as is mentioned in rule 7(3), the adjudicator may, and at the request of the respondent shall, determine the validity of the allegation as a preliminary issue.

(2) Unless in consequence of the determination of such a preliminary issue the adjudicator determines that -

- (a) he has no jurisdiction to proceed, or
- (b) the appeal should be dismissed,

the respondent shall, by such time as the adjudicator directs, submit to the adjudicator a written statement of the facts relating to the decision or action in question to the extent that by virtue of the provisions of rule 7 (3) those facts have not already been furnished, and a copy of such a statement shall be given to the appellant.

(3) Save where, in consequence of the determination of a preliminary issue, an adjudicator makes a further determination to the effect specified in sub-paragraph (a) or (b) of paragraph (2), in any hearing before the adjudicator, at the commencement of the proceedings subsequent to the determination of the preliminary issue, the adjudicator shall give to the respondent an opportunity to amplify orally the written statements given in accordance with rule 7(1) or paragraph (2).

(4) Where the respondent to an appeal makes such an allegation as is

mentioned in rule 7(3)(b) and the adjudicator determines, as a preliminary issue, that the notice of appeal was not given within the period permitted by rule 3, then, except where a deportation order is for the time being in force in respect of the appellant, the adjudicator shall not be required to dismiss the appeal but may allow it to proceed if the adjudicator is of the opinion that, by reason of special circumstances, it is just and right to do so; and, in such case, the notice of appeal shall be treated for all purposes as if it had been given in accordance with rule 3.

Determination of appeal without hearing

11. The adjudicator may determine an appeal without a hearing if -

- (a) no party to the appeal has requested a hearing; or
- (b) the adjudicator has decided, after giving every other party to the appeal an opportunity of replying to any representations submitted in writing by or on behalf of the appellant, to allow the appeal; or
- (c) the adjudicator is satisfied that the appellant is outside the Isle of Man or that it is impracticable to give him notice of a hearing and, in either case, that no person is authorised to represent him at a hearing; or
- (d) the adjudicator is satisfied that no matter arises on the appeal other than an objection by the appellant to removal to a particular country or territory or a claim by him that he ought to be removed (if at all) to a different country or territory and is of the opinion that matters put forward in support of the appeal in pursuance of rule 8 do not warrant a hearing; or
- (e) such a preliminary issue as is referred to in rule 10 arises and the adjudicator has afforded the appellant a reasonable opportunity to submit a statement in writing of matters put forward in rebuttal of the respondent's allegation, and -
 - (i) the appellant has not submitted such a statement,

or

- (ii) the adjudicator is of the opinion that matters put forward by the appellant in such a statement do not warrant a hearing; or
- (f) the decision appealed against has been withdrawn or reversed by the respondent, and the adjudicator is satisfied that written notice of the withdrawal or reversal, as appropriate, has been given to the appellant by the respondent.

Bail

12. (1) An application by a person to be released on bail under paragraph 22 or 29 of Schedule 2 to the Act -

- (a) if made to an immigration officer or police officer, shall be made orally; or
- (b) if made to the adjudicator, shall be made either orally or in writing.

(2) Where an application is made in writing pursuant to paragraph (1)(b), it shall contain the following particulars -

- (a) the full name of the applicant;
- (b) the address of the place where the applicant is detained at the time when the application is made;
- (c) the address where the applicant would reside if his application for bail were to be granted;
- (d) the amount of the recognizance in which he would agree to be bound;
- (e) the full names addresses and occupations of two persons who might act as sureties for the applicant if his application for bail were to be granted, and the amounts of the recognizances in which those persons might agree to be bound; and

(f) the grounds on which the application is made.

(3) An application made in writing pursuant to paragraph (1)(b) shall be signed by the applicant or by a person duly authorised by him in that behalf, or, in the case of an applicant who is a minor or who is for any reason incapable of acting, by any person acting on his behalf.

(4) The recognizance of an applicant shall be in Form 1 and that of a surety in Form 2.

(5) Where the adjudicator directs the release of an applicant on bail and the taking of the recognizance is postponed under paragraph 22(3) or 29(6) of Schedule 2 to the Act, the adjudicator shall certify in writing that he has granted bail in respect of the applicant, and shall include in the certificate particulars of the conditions to be endorsed on the recognizance with a view to the recognizance being taken subsequently, the amounts in which the applicant and any sureties are to be bound and the date of issue of the certificate.

(6) The person having custody of the applicant shall -

(a) on receipt of a certificate signed by the adjudicator stating that the recognizances of any sureties required have been taken, or on being otherwise satisfied that all such recognizances have been taken; and

(b) on being satisfied that the applicant has entered into his recognizance,

release the applicant.

Notice of time and place for hearing

13. (1) Subject to paragraph (2), as soon as practicable after notice of appeal has been given, or is deemed to have been given, the adjudicator shall, if there is to be a hearing, give notice in writing to every party to the appeal stating the time and place of the hearing.

(2) Where an appellant is detained under paragraph 16 of Schedule 2 to the Act (detention pending examination or removal), the adjudicator may, instead

of giving notice in writing as aforesaid, cause any immigration officer to be notified orally of the time and place of the hearing; and thereupon that officer shall take such steps as are necessary to ensure that every party to the appeal is notified accordingly and that the appellant is produced at the hearing.

(3) Where a hearing is adjourned, the adjudicator shall give notice, either orally or in writing, to every party to the appeal of the time and place of the adjourned hearing except in the case of a party who has been absent throughout the preceding proceedings on the appeal or where the adjudicator is satisfied that it is impracticable to give such notice.

Power to require particulars

14. The adjudicator may at any time request any party to the appeal to furnish any particulars which appear to be requisite for the determination of the appeal and thereupon that party shall send the particulars to the adjudicator.

Representation

15. (1) In any proceedings on an appeal, a party to the appeal may act in person or be represented or may appear -

- (a) in the case of the appellant, by an advocate or, with the leave of the adjudicator, by any other person appearing to act on behalf of the appellant;
- (b) in the case of the Lieutenant Governor or any officer, by a person appointed by the Lieutenant Governor or officer in that behalf;
- (c) in the case of the United Kingdom Representative of the United Nations High Commissioner for Refugees, by a person appointed by him in that behalf.

(2) A person representing a party to an appeal in accordance with paragraph (1) may take all such steps and do all such things relating to the proceedings as the person whom he represents is by these Rules required or

authorised to take or do.

Summoning of witnesses

16. (1) The adjudicator may, for the purposes of any appeal, by summons require any person in the Isle of Man to attend as a witness at a hearing of the appeal at such time and place as may be specified in the summons and, subject to the provisions of rule 18(2), at the hearing to answer any questions or produce any documents in his custody or under his control which relate to any matter in question in the appeal.

(2) Any such summons shall be in Form 3.

Conduct of proceedings at hearings

17. Subject to the provisions of rule 22 at any hearing by the adjudicator -

- (a) the adjudicator shall give to each party to the appeal an opportunity to address the adjudicator, to give evidence and to call witnesses, and any party to the appeal may put questions to any person giving evidence before the adjudicator;
- (b) the adjudicator shall give to each party to the appeal an opportunity of making representations on the evidence (if any) and on the subject matter of the appeal generally, but, where evidence is taken, such opportunity shall not be given before the completion of the taking of evidence,

but, save as aforesaid and after complying where appropriate with the provisions of rule 7(4) or 10(3), the adjudicator shall conduct the proceedings in such a manner as he considers appropriate in the circumstances for ascertaining the matters in dispute and determining the appeal.

Evidence

18.(1) The adjudicator may receive oral, documentary or other evidence of any fact which appears to him to be relevant to the appeal, notwithstanding that such

evidence would be inadmissible in a court of law.

(2) In any proceedings before the adjudicator, no person shall be compelled to give any evidence or produce any document which he could not be compelled to give or produce on the trial of an action in the High Court of Justice of the Isle of Man.

(3) The adjudicator may require any witness to give evidence on oath or affirmation, and for that purpose an oath or affirmation in due form may be administered.

Inspection of documentary evidence

19. (1) Subject to paragraph (2), when the adjudicator takes into consideration documentary evidence the adjudicator shall give every party to the appeal an opportunity of inspecting that evidence and taking copies thereof.

(2) Where on an appeal it is alleged -

- (a) that a passport or other travel document, certificate of entitlement, entry clearance or work permit (or any part thereof or entry therein) on which a party relies is a forgery, and
- (b) that the disclosure to that party of any matters relating to the method of detection would be contrary to the public interest,

then, if supply of a document to that party would involve such disclosure, that document shall not be supplied to, or made available for inspection by, that party.

Burden of proof

20. (1) If in any proceedings before the adjudicator a party thereto asserts that a decision or action taken against him under any provisions of the Act ought not to have been taken on the grounds that he is not a person to whom those provisions apply, it shall lie on him to prove that he is not such a person.

(2) If in any proceedings before the adjudicator a party thereto asserts any fact of such a kind that, if the assertion were made to the Lieutenant Governor or any officer for the purposes of any of the provisions of the Act or any immigration

rules, it would by virtue of those provisions or rules be for him to satisfy the Lieutenant Governor or officer of the truth thereof, it shall lie on that party to prove that the assertion is true.

(3) In paragraph (2), "immigration rules" means the rules for the time being laid down under section 3(2) of the Act.

Exclusion of the public

21. (1) Subject to paragraphs (2) and (3), any hearing by the adjudicator shall take place in public.

(2) Where in accordance with section 22(4) of the Act (cases involving forgery of documents) the adjudicator is required to provide for the proceedings to take place in the absence of a party and his representatives, the adjudicator shall exclude all members of the public from those proceedings.

(3) The adjudicator may exclude any member of the public or members of the public generally from any hearing or from any part of such a hearing -

- (a) at the request of a party; or
- (b) where, in the opinion of the adjudicator, a member of the public is behaving in a manner likely to interfere with the proper conduct of the proceedings and, to prevent such interference, that member or members of the public generally should be excluded; or
- (c) where, in the opinion of the adjudicator, such evidence relating to a person other than a party is likely to be given as, subject to the interests of the parties, should not be given in public and no party requests that it be given in public.

Hearing of appeal in absence of appellant or other party

22. (1) The adjudicator may, where in the circumstances of the case it appears to the adjudicator proper to do so, hear an appeal in the absence of the appellant -

- (a) if satisfied that he is not in the Isle of Man; or
- (b) if satisfied that he is suffering from a communicable disease or from a mental disorder; or
- (c) if satisfied that by reason of illness or accident he cannot attend the hearing; or
- (d) if satisfied that it is impracticable to give him notice of the hearing and that no person is authorised to represent him at the hearing.

(2) Without prejudice to paragraph (1) but subject to paragraph (3), the adjudicator may proceed with the hearing of an appeal in the absence of a party (including the appellant) if satisfied that, in the case of that party, such notice of the time and place of the hearing, or of the adjourned hearing, as is required by rule 13, has been given.

(3) The adjudicator shall not, unless it seems proper in the circumstances of the case so to do, proceed with the hearing in pursuance of paragraph (2) if the absent party has furnished the adjudicator with an explanation of his absence.

(4) Where in pursuance of this rule the adjudicator hears an appeal or proceeds with a hearing in the absence of the appellant or some other party, the authority may determine the appeal upon such evidence as has been received.

(5) For the purposes of this rule -

- (a) notice of the time and place of a hearing, or an adjourned hearing, shall be presumed to have been given, unless the contrary be shown, if notice was sent by post in accordance with rule 31 not later than 7 days before the date thereof;
- (b) a reference to a party (including an appellant) includes a reference to his representative.

Summary determination of appeals

23. (1) Subject to paragraph (2), where it appears to the adjudicator that the issues raised on an appeal have been determined by the adjudicator under Part II of

the Act in previous proceedings to which the appellant was a party, on the basis of facts which did not materially differ from those to which the appeal relates, the adjudicator may forthwith determine the appeal without a hearing.

(2) Before the adjudicator determines an appeal without a hearing in accordance with paragraph (1), he shall give the parties an opportunity of making representations to the effect that the appeal ought not to be so determined.

(3) Where an appeal is determined without a hearing in accordance with paragraph (1), the adjudicator shall give written notice to the parties that the appeal has been so determined, and any such notice shall contain a statement of the issues raised on the appeal and specify the previous proceedings in which those issues were determined.

Combined hearings

24. Where in the case of two or more appeals it appears to the adjudicator -

- (a) that some common question of law or facts arises in both or all of them; or
- (b) that they relate to decisions or action taken in respect of persons who are members of the same family; or
- (c) that for some other reason it is desirable to proceed with the appeals under this rule,

the adjudicator may, with the agreement of all the parties to those appeals, decide that the appeals should be heard together.

Miscellaneous powers

25. The adjudicator may -

- (a) postpone the time fixed for the hearing of an appeal;
- (b) give directions on any matter arising in connection with an appeal to any party who requests them;
- (c) if the parties to an appeal agree in writing upon the terms of a determination to be made by the adjudicator, determine the

appeal accordingly;

- (d) adjourn the hearing of any evidence or representations or the consideration of an appeal to such date as the adjudicator may determine; and
- (e) subject to the provisions of the Act and of these Rules, regulate his own procedure.

Irregularities

26. Any irregularity resulting from failure to comply with these Rules before the adjudicator has reached his decision shall not by itself render the proceedings void, but the adjudicator may, and shall if he considers that any person may have been prejudiced, take such steps as he thinks fit before reaching his decision to cure the irregularity, whether by amendment of any document, the giving of any notice or otherwise.

Promulgation of determination and reasons therefor

27. (1) Where there is a hearing of an appeal and the adjudicator does not reserve the determination on the appeal, he shall pronounce the determination and the reasons therefor at the conclusion of the hearing, and shall send to every party to the appeal, as soon as practicable, a copy of the document recording the determination, referred to in paragraph (3).

(2) Where there is a hearing of an appeal but the adjudicator reserves the determination on the appeal, the adjudicator shall as soon as practicable notify every party to the appeal of his determination by sending to each party a copy of the document referred to in paragraph (3).

(3) The determination on any appeal shall be recorded by the adjudicator in a document signed by him; and the reasons for the determination shall be set out therein.

Record of proceedings

28. The adjudicator shall cause a summary of the proceedings before him to be taken, except insofar as a record of them is kept by means of shorthand notes or by mechanical means.

References by the Lieutenant Governor

29. The adjudicator shall consider any matter referred to him by the Lieutenant Governor for consideration under section 21 of the Act in whatever manner he thinks appropriate.

Time

30. (1) Where the time provided by these Rules for doing any act expires on a Saturday, a Sunday or a public holiday and by reason thereof the act cannot be done on that day, the act shall be in time if done on the next working day.

(2) Where, under these Rules, an act is to be done not later than a specified period after any event, the period shall be calculated from the expiry of the day on which the event occurred.

Notices etc

31. (1) Any notice or other document required or authorised by these Rules to be sent or given to any person or authority may be sent by post in a registered letter or by the recorded delivery service or delivered -

- (a) in the case of a document directed to the adjudicator, to any person acting as his clerk;
- (b) in the case of a document directed to the Lieutenant Governor, to the Immigration Office;
- (c) in the case of a document directed to an immigration officer or entry clearance officer, to the Immigration Office;
- (d) in the case of a document directed to any other person, to his address for service specified in any notice given under these

Rules, or to his last known or usual place of abode,
and, if sent or given to a person representing a party to an appeal in accordance
with rule 15(1), shall be deemed to have been sent or given to that party.

(2) A party to an appeal may at any time by notice to the adjudicator
change his address for service under these Rules.

Variation of forms

32. The forms set out in the Schedule to these Rules or forms substantially to
the like effect may be used with such variations as the circumstances may require.

SCHEDULE
Forms

FORM 1

Rule 12(4)

IMMIGRATION ACT 1971

RECOGNIZANCE OF APPELLANT

I, (hereinafter called the appellant) acknowledge that I owe to the Treasury the sum of £, payment thereof to be enforced against me by due process of law if I fail to comply with the conditions(s) endorsed hereon.

Signed

Address at which appellant proposes to reside pending appeal:

.....
.....
.....

Taken before me the day of 19
at

Signed
Office

(Endorsement)

Condition(s)

The condition(s) of this recognizance is (are) that if the appellant appears before the adjudicator at (time and place) unless the adjudicator otherwise orders, then this recognizance shall be void, but otherwise shall remain in full force (see Note below).

Note:

Conditions appearing to the adjudicator to be likely to result in the appellant's appearance at the time and place required may be added.

IMMIGRATION ACT 1971

RECOGNIZANCE OF APPELLANT'S SURETY

I, acknowledge that I owe to the Treasury the sum of £ payment thereof to be enforced against me by due process of law if detained in fails to comply with the condition endorsed hereon.

Signed
Address
.....
.....

Taken before me the day of 19 at

Signed
Office

(Endorsement)

Condition

The condition of the recognizance is that if the said appears before the adjudicator at (time and place) unless the adjudicator otherwise orders, then this recognizance shall be void, but otherwise shall remain in full force.

FORM 3

Rule 16(2)

IMMIGRATION ACT 1971

SUMMONS TO WITNESS

To (name)
of (address)

An appeal has been lodged by
against the *decision/action of
to the effect that:-

..... (State shortly the particulars of
..... the decision or action appealed
..... against.)

And I, the undersigned, am satisfied that you are likely to be able to (give material
evidence) (and) (produce the undermentioned documents(s) likely to be material
evidence) therein.

You are therefore summoned to appear as a witness at the hearing of the appeal
at (time and place) and at the hearing to (answer
any questions) (and) (produce the following document(s)):-

Signed
(Adjudicator)

Date

Note:

Failure to comply with this summons without reasonable excuse is an offence
carrying a fine not exceeding £1000.

* delete word which is inapplicable

MADE 26th February, 1997



First Deemster and Clerk of the Rolls



Second Deemster

EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules relate to the practice and procedure to be followed on or in connection with appeals under Part II of the Immigration Act 1971 (an Act of Parliament) as it has effect in the Isle of Man.